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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Andy Charles Bodie,

Plaintiff,

vs.

Unknown Tipten, et al.,

Defendants.

No. CV 10-2788-PHX-RCB (ECV)

ORDER

Plaintiff Andy Charles Bodie, who is confined in the Pinal County Jail in Florence, Arizona, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 with an incomplete Application to Proceed *In Forma Pauperis*. In an Order filed on January 3, 2011, the Court denied Plaintiff's *in forma pauperis* application and granted him 30 days in which to either pay the \$350.00 civil action filing fee or file a properly complete Application to Proceed *In Forma Pauperis*. (Doc. 4.) Plaintiff has filed another Application to Proceed *In Forma Pauperis*, which is also incomplete. (Doc. 5.) The Court will give Plaintiff 30 days from the filing date of this Order in which to pay the fee or file a completed Application to

1 Proceed *In Forma Pauperis*.

2 **I. Payment of Filing Fee**

3 When bringing an action, a prisoner must either pay the \$350.00 filing fee in a lump
 4 sum or, if granted the privilege of proceeding *in forma pauperis*, pay the fee incrementally
 5 as set forth in 28 U.S.C. § 1915(b)(1). An application to proceed *in forma pauperis* requires
 6 an affidavit of indigence and a *certified* copy of the inmate's trust account statement for the
 7 six months preceding the filing of the Complaint. 28 U.S.C. § 1915(a)(2). An inmate must
 8 submit statements from each institution where he was confined during the six-month period.
 9 Id. To assist prisoners in meeting these requirements, the Court requires use of a form
 10 application. LRCiv 3.4(a).

11 If a prisoner is granted leave to proceed *in forma pauperis*, the Court will assess an
 12 initial partial filing fee of 20% of either the average monthly deposits or the average monthly
 13 balance in Plaintiff's account, whichever is greater. 28 U.S.C. § 1915(b)(1). An initial
 14 partial filing fee will only be collected when funds exist. 28 U.S.C. § 1915(b)(4). The
 15 balance of the fee will be collected in monthly payments of 20% of the preceding month's
 16 income credited to an inmate's account, each time the amount in the account exceeds \$10.00.
 17 28 U.S.C. § 1915(b)(2).

18 **II. Application Fails to Comply With Statute**

19 Plaintiff has used the court-approved form and completed the "Consent to Collection
 20 of Fees from Trust Account" section. However, he has again failed to have the "Certificate
 21 of Correctional Official as to Status of Applicant's Trust Account" section completed or to
 22 submit a certified six-month inmate trust account statement. In light of these deficiencies,
 23 Plaintiff will be permitted 30 days to either pay the \$350.00 filing fee or file a complete
 24 Application to Proceed *In Forma Pauperis*. Plaintiff may present a copy of this Order to jail
 25 officials to substantiate his request that a correctional officer certify his inmate trust account
 26 status and a request for a copy of his inmate trust account statement. *If Plaintiff is unable to*
 27 *fully comply with this Order due to acts or omissions of others beyond his control, Plaintiff*
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1 *must file a declaration signed under penalty of perjury setting forth facts to support any*
 2 *inability to comply.*

3 **III. Warnings**

4 **A. Address Changes**

5 Plaintiff must file and serve a notice of a change of address in accordance with Rule
 6 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
 7 relief with a notice of change of address. Failure to comply may result in dismissal of this
 8 action.

9 **B. Copies**

10 Plaintiff must submit an additional copy of every filing for use by the Court. See
 11 LRCiv 5.4. Failure to comply may result in the filing being stricken without further notice
 12 to Plaintiff.

13 **C. Possible Dismissal**

14 If Plaintiff fails to timely comply with every provision of this Order, including these
 15 warnings, the Court may dismiss this action without further notice. See *Ferdik v. Bonzelet*,
 16 963 F.2d 1258, 1260-61 (9th Cir. 1992) (a district court may dismiss an action for failure to
 17 comply with any order of the Court).

18 **IT IS ORDERED:**

19 (1) Plaintiff's Application to Proceed *In Forma Pauperis*, filed with the Complaint,
 20 is **denied without prejudice**. (Doc. 5.)


21 (2) Within **30 days** of the date this Order is filed, Plaintiff must either pay the
 22 \$350.00 filing fee **or** file a completed Application to Proceed *In Forma Pauperis* and a
 23 certified six-month trust account statement.

24 (3) If Plaintiff fails to either pay the \$350.00 filing fee or file a completed
 25 Application to Proceed *In Forma Pauperis* within 30 days, the Clerk of Court must enter a
 26 judgment of dismissal of this action without prejudice and without further notice to Plaintiff.

27 (4) The Clerk of the Court must mail Plaintiff a court-approved form for filing an
 28 . . .

1 Application to Proceed *In Forma Pauperis* (Non-Habeas).

2 DATED this 19th day of February, 2011.

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6 Robert C. Broomfield
7 Senior United States District Judge
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